

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division**

BLANCHE E. BAILEY,

Plaintiff,

v.

Civil Action No.: 4:07cv69

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

OPINION AND ORDER

Plaintiff brought this action under 42 U.S.C. § 405(g) and 42 U.S.C. § 1383(c)(3) seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for supplemental security income under Title XVI of the Social Security Act (“SSA”). Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated October 31, 2007, this matter was referred to a United States Magistrate Judge for a Report and Recommendation.

The Report and Recommendation of the Magistrate Judge (“R&R”), filed on July 8, 2008, finds that the Administrative Law Judge’s (“ALJ”) determination that Plaintiff is not disabled is not fully supported by substantial evidence. Doc. 19. Specifically, the Magistrate Judge finds that the weight the ALJ accorded to the medical evidence and the ALJ’s finding that Plaintiff was capable of performing the full range of light work were not supported by substantial evidence. *Id.* at 18, 21. Accordingly, the Magistrate Judge recommended the following: 1) that Plaintiff’s Motion for Summary Judgment be granted in part and denied in part; 2) that

Defendant's Motion for Summary Judgment be granted in part and denied in part; and 3) that the final decision of the Commissioner be reversed and remanded for further administrative proceedings. Id. at 23.

By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge within ten (10) days from the date the R&R was mailed, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. Doc. 19 at 23. The time for filing written objections has now passed, and neither party has filed objections. As indicated in the R&R, "failure to file timely objections to the findings and recommendations set forth [in the R&R] will result in a waiver of the right to appeal from a judgment of this court based on such findings and recommendations." See id. at 23-24.

This Court has reviewed the R&R of the Magistrate Judge and hereby adopts and approves in full the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that Plaintiff's Motion for Summary Judgment be **GRANTED** in part and **DENIED** in part; that Defendant's Motion for Summary Judgment be **GRANTED** in part and **DENIED** in part; and that the final decision of the Commissioner be **REVERSED** and **REMANDED** for further administrative proceedings consistent with the R&R.

The Clerk is **REQUESTED** to send a copy of this Opinion and Order to all counsel of record.

It is so **ORDERED**.

/s/

HENRY COKE MORGAN, JR.
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
August 4, 2008